

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

)
Petition of Level 3 Communications LLC for
Forbearance Under 47 U.S.C. Section 160(c) from
Application of Section 251(g) of the
Communications Act of 1934, as Amended, the
Exception Clause of Section 51.701(b)(1) of the
Commission's Rules, and Section 69.5(b) of the
Commission's Rules)

WC Docket No. 03-266

ORDER

Adopted: October 21, 2004

Released: October 21, 2004

By the Chief, Wireline Competition Bureau:

1. In this Order, pursuant to section 10(c) of the Communications Act of 1934, as amended (the Act),¹ we extend by 90 days the date by which the petition requesting forbearance filed by Level 3 Communications LLC (Level 3) shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standards for forbearance under section 10(a) of the Act.²

2. On December 23, 2003, Level 3 filed a petition requesting the Commission to forbear from application of section 251(g) of the Act,³ the exception clause of section 51.701(b)(1) of the Commission's rules,⁴ and section 69.5(b) of the Commission's rules,⁵ to the extent those provisions could be interpreted to permit local exchange carriers (LECs) to impose interstate or intrastate access charges on Internet protocol (IP) traffic that originates or terminates on the public switched telephone network (PSTN), or on PSTN-PSTN traffic that is incidental thereto.⁶ Level 3 excludes from its forbearance request geographic service areas of incumbent LECs that currently are exempt from section 251(c) pursuant to section 251(f)(1)'s rural exemption.⁷

3. Section 10(c) of the Act states that a petition for forbearance shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under section 10(a) within one year after the Commission receives it, unless the one-year period is extended by

¹ 47 U.S.C. § 160(c).

² 47 U.S.C. § 160(a).

³ 47 U.S.C. § 251(g).

⁴ 47 C.F.R. § 51.701(b).

⁵ 47 C.F.R. § 69.5(b).

⁶ *Level 3 Communications LLC Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1), and Rule 69.5(b)* (filed Dec. 23, 2003) (Level 3 Petition). See also *Pleading Cycle Established for Petition of Level 3 for Forbearance from Assessment of Access Charges on Voice-Embedded IP Communications*, WC Docket No. 03-266, Public Notice, DA 04-1 (Wireline Comp. Bur. Jan. 2, 2004).

⁷ 47 U.S.C. §§ 251(c) and (f)(1); Level 3 Petition at 2.

the Commission.⁸ The Commission may extend the initial one-year period by an additional 90 days if it finds that an extension is necessary to meet the requirements of section 10(a).⁹

4. The petition under review raises significant questions regarding whether forbearance from application of section 251(g) of the Act,¹⁰ the exception clause of section 51.701(b)(1) of the Commission's rules,¹¹ and section 69.5(b) of the Commission's rules,¹² as those provisions relate to IP traffic, meets the statutory requirements set forth in section 10(a).¹³ Thus, the Bureau finds that a 90-day extension is warranted under section 10(c).¹⁴

5. Accordingly, IT IS ORDERED, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the date on which the petition seeking forbearance filed by Level 3 shall be deemed granted, in the absence of a Commission denial of the petition for failure to meet the statutory standards for forbearance, is extended to March 22, 2005.

FEDERAL COMMUNICATIONS COMMISSION



Jeffrey J. Carlisle
Chief, Wireline Competition Bureau

⁸ 47 U.S.C. § 160(c).

⁹ *Id.* See, e.g., *Petition of Ameritech Corporation for Forbearance from Enforcement of Section 275(a) of the Communications Act of 1934, As Amended*, CC Docket No. 98-65, Order, 14 FCC Rcd 6415 (Com. Car. Bur. 1999).

¹⁰ 47 U.S.C. § 251(g).

¹¹ 47 C.F.R. § 51.701(b).

¹² 47 C.F.R. § 69.5(b).

¹³ 47 U.S.C. § 160(a).

¹⁴ 47 U.S.C. § 160(c).